
 POLITICS & GOVERNMENT

“Devolution”—the intentional shifting of power and responsibility from the federal level to the states, cities, and counties, has resulted in “renewal and invigoration” in state and local governments. Ideological and partisan divisions in cities and states are in “sharp decline,” as both Republicans and Democrats agree that increased spending in some programs (such as prenatal care) saves tax dollars in the long run. State governments are also making their staffs more efficient; many states, for example, have restructured unemployment offices to help people on welfare find jobs.

States and cities have also found innovative ways to bypass Washington. Localities are making their own deals with foreign governments in order to attract investment and promote their products. Des Moines, Iowa, for example, is establishing a 1,000-acre farm in China as a showcase for local food exporters. States are also expanding regulation into areas untouched by Washington. Wisconsin requires automatic deductions of child-support payments from the wages of fathers who desert their children on welfare, thus becoming a state that goes “far beyond federal requirements in holding parents responsible for their children until age 18.”

Herbers does not expect further cutbacks in federal aid to states and cities. He predicts that rather than dictating local policy, Washington will continue to “build its programs around the innovations of the states.”

Judging

“What Am I? A Potted Plant?” by Richard A. Posner, in *The New Republic* (Sept. 28, 1987), 1220 19th St. N.W., Washington, D.C. 20036.

What should the powers of federal judges be? Some legal scholars (known as “strict constructionists” or “legal formalists”) believe that the primary task of a judge should be to determine the nature and limits of “private rights”—rights which only apply to particular individuals. Judges, these scholars maintain, should administer existing laws, and leave the creation of new laws or rights to the elected branches of government.

Posner, a circuit court judge and senior lecturer at the University of Chicago, argues that “strict constructionism” is politically and legally impossible. State and federal courts, he contends, have been “entrusted with making policy” since the United States began.

Legal formalists, Posner believes, wrongly assume that legislators have perfect knowledge of the consequences of the laws they pass. They fail to take into account that technological and social changes create new legal questions that courts must resolve. For example, the Supreme Court’s 1972 decision that unauthorized wiretaps violate Fourth Amendment prohibitions against unreasonable searches and seizures was a needed “interpretation” of the Constitution, simply because wiretaps did not exist at the time of the Founders.

The Constitution, according to Posner, can be divided into “specific” and “general” clauses. While many of the “specific” clauses “have stood the test of time amazingly well,” others, such as the Second Amendment “right to bear arms,” have become “dangerously anachronistic” and in need of correction.

POLITICS & GOVERNMENT

Is "strict construction" of the "general" clauses of the Constitution possible? Posner thinks not, because the Constitution does not include explicit instructions as to whether it is to be read "broadly" or "narrowly." A judge must base his decisions not just on the Constitution, but on his beliefs about the function and purpose of the courts. Posner cites Supreme Court Justice Oliver Wendell Holmes, who argued that judges should legislate "interstitially"—slowly, and in a less partisan way than the elected branches of government.

Liberals who attempt to enact their political agenda into constitutional law, in Posner's view, may be "imprudent and misguided." But their actions do not violate either the letter or the spirit of the Constitution just because they offend the tenets of strict construction.

FOREIGN POLICY & DEFENSE

American Decline

"The Persistent Myth of Lost Hegemony" by Susan Strange, in *International Organization* (Autumn 1987), 55 Hayward St., Cambridge, Mass. 02142.

One of the persistent myths of our time says Strange, a professor of international relations at the London School of Economics, is that America has passed her prime as a great power. Faced with a shrinking share of world trade, a dwindling industrial base, and increasingly fractious allies, America, many scholars conclude, like Britain before it, must face an imperial sunset.

But America, Strange argues, is not in retreat. The decline of American power, she believes, has been greatly exaggerated.

Most scholars believe the best way to measure the strength of various countries is "relational power"—the ability of one nation to influence the policies of another. But "relational power," Strange contends, has become a less useful measure; the nature of the contest between states has shifted from a competition over territory to a competition over market shares in the world economy.

Strange maintains that nations should be measured by their "structural power"—the ability to shape "the global political economy." Structural power can be judged in four ways: military strength, financial clout, control over world knowledge, and production of goods and services.

In all four areas, the world is still dancing to American tunes. Of the 300 largest corporations, 142 are American, including seven of the 10 largest oil companies and the six largest computer firms. Because dollars are the currency used in most international financial transactions, the U.S. is the only government capable of creating assets "that are accepted and saleable worldwide." Large corporate research and development programs, combined with massive defense spending and universities that are bigger, richer, and less politicized than their foreign counterparts, ensure that the U.S. is the world's leading information producer. Only in military strength does the U.S. have an equally powerful rival (the Soviet Union),